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EXAMINER

GRAHAM, CLEMENT B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,971

Applicant(s)

ANVEKAR ET AL.

Examiner

Clement B Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 11, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION
Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are found to be non-statutory subject matter.

For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-15, do not recite any structure or functionality to suggest that a computer performs the recited claims.

Thus, claims 1-15, are rejected as being directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. As per claims 1-15, are rejected under 35 U.S.C. 102(e) as being anticipated by

Shell U.S. Patent 6, 691, 093.

As per claim 1, Shell discloses a settlement method, comprising:

debiting a first stored value account according to the value of a purchase effected using said first stored value account ("i. e, credit card") and crediting any resulting commission to a second stored value account ("i. e, designated accounts ") said first stored value account having been sold to a purchaser by a representative within a hierarchy of representatives, said second stored value account being owned by said representative within said hierarchy of representatives (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20 interpretive as claimed).

As per claim 2, Shell discloses determining whether said commission credited to said second stored value account is to be apportioned among other stored value accounts associated with respective other representatives within said hierarchy ("i. e, pays multi level commissions" see column 2 lines ") of representatives and transferring, as appropriate, apportioned value from said second stored value account to said other stored value accounts.(see column 5 lines 15-25).

As per claim 3, Shell discloses defining a set of privileges for said purchaser, and crediting, to respective stored value accounts of representatives hierarchically("i. e, pays multi level commissions" see column 2 lines ") superior to said purchaser, respective apportioned fees earned according to said defined set of privileges.(see column 5 lines 15-25).

As per claim 4, Shell discloses, wherein said privileges comprise at least one of an ability to sell specific products or services, an ability to recruit other representatives, an ability to operate within a particular geographic region, a sales or recruiting commission structure and a sales or recruiting bonus structure. see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20).

As per claim 5, Shell discloses the method of claim 1, further comprising: creating, in a database, a record for said purchaser including said stored value card reference number, a PIN associated with said purchaser and a PIN associated with a recruiting representative, said recruiting representative s providing said stored value card to said purchaser. see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20).

As per claim 6, Shell discloses the method of claim 5, further comprising:

providing a confirmation of registration message to said recruiting representative and said purchaser, said confirmation message indicating that said purchaser may access the database. see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20).

As per claim 7, Shell discloses the method of claim 6, further comprising: receiving, from said purchaser, a pass code for subsequent use in accessing value associated with said first stored value account.(see column 2 lines 5-65).

As per claim 8, Shell discloses a method for use in a multiple level marketing (MLM) system comprising a plurality of selling representatives financially cooperating in a hierarchical manner, said method comprising:

providing, to a new selling representative in exchange for a first value, a 5 stored value card having associated with it a stored value account of an initial value, a reference number and a first personal identification number (PIN); registering said new selling representative within said MLM system using said stored value card reference number, and crediting, to respective stored value accounts of selling representatives hierarchically superior to said new selling representative, respective apportioned commissions earned by the use of said stored value card, said stored value card account value being debited in response to said use and said credited commissions. (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20 interpretive as claimed).

As per claim 9, Shell discloses the method of claim 8, further comprising: defining a set of privileges for said new selling representative; and crediting, to respective stored value accounts of selling representatives hierarchically superior to said new selling representative, respective apportioned s fees earned according to said defined set of privileges. (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20 interpretive as claimed).

As per claim 10, Shell discloses t he method of claim 9, wherein said privileges comprise at least one of an ability to sell specific products or services, an ability to recruit other selling representatives, an ability to operate within a particular geographic region, a sales or recruiting commission structure and a sales or recruiting bonus s

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structure. (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20).

As per claim 11, Shell discloses the method of claim 8, wherein said registering comprises:

providing, to an MLM system database, said stored value card reference number and data regarding said new selling representative. see column 2 lines 10-20 and column 4 lines 35-65 and column 5 lines 5-25).

As per claim 12, Shell discloses the method of claim 8, further comprising: creating, in an MLM system database, a record for said new selling representative including said stored value card reference number, a PIN associated with said new selling representative and a PIN associated with a s recruiting selling representative, said recruiting selling representative providing said stored value card to said new selling representative. (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20 interpretive as claimed).

As per claim 13, Shell discloses the method of claim 12, further comprising: providing a confirmation of registration message to said recruiting selling representative and said new selling representative, said confirmation message indicating that said new selling representative may access the MLJVI system s database. (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20).

As per claim 14, Shell discloses the method of claim 13, further comprising: receiving, from said new selling representative, a pass code for subsequent use in accessing value associated with said stored value card column 2 lines 10-20 and column 4 lines 35-65 and column 5 lines 5-25).

As per claim 15, Shell discloses a data structure, comprising: a plurality of stored value accounts, each of said stored value accounts having associated with it a value parameter indicative of a present stored value, a personal identification number (PIN) indicative of an account owner logically linked to a stored value account of a selling representative; wherein the value parameter of a stored value account used to effect a purchase is debited according to the value of said

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purchase, and in the case of said purchase generating a commission, the value parameter of a logically linked stored value account is credited according to the value of said commission. (Note fig: 1 and see column 4 lines 35-65 and column 5 lines 5-25 and column 2 lines 10-20 interpretive as claimed).

Conclusion

4. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Joong et al U.S, 6,188, 887 Patent) teaches distributed data storage and delivery in a cellular telephone network.

.Sehr (US Patent 6, 609, 659) teaches passport system and methods utilizing multi application passport cards.

Liddy et al (US Patent 6, 026, 388) teaches user interface and other enhancements for natural language information retrieval system and method.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

August 6, 2004


FRANTZY POINVIL
PRIMARY EXAMINER
Au3628